TL 1819

IPJET

IPJET Membership (Alphabetical Order) (on 3 May 94)

Aditjondro, George 181
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Alkatiri, Mari 106
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Brito, Wladimir 101
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Chinkin, Christine 109
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Clark, Roger S. 10
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THE CASE TILMAN

I

On Jan 21, I sent to Manuel Tilman a letter, which I partly translate:

"(...) in Portugal (...) many IPJET members conveyed to me their great concern for your activities of the last weeks. Back to Holland, I received more letters, protesting particularly against your declarations to Indonesian newspapers. Through EMail (conf reg.easttimor), I was able to locate the following quotations:

1- *Surya* (31 December 1993) quotes Tilman as saying the Portuguese Lawyers Association of which he is a member will not intervene in the judicial affairs of another country. "(The Xanana case) is a matter for the Indonesian judiciary and we will not interfere even if Xanana asks us to do so. Intervention can only take place at the request of Indonesia." According to Tilman, the Association has received a copy of Xanana's letter but has not yet circulated it.

2- *Jakarta Post*, 3/1/94:

Support for the movement opposing East Timor's integration with Indonesia is crumbling in Portugal, a visiting Portuguese lawyer said over the weekend. Manuel Tilman, an East Timor-born lawyer told the Jakarta Post that the Portuguese people are increasingly doubting the sincerity of the East Timorese in exile in Portugal, who continue to insist on establishing a separate East Timor State.

"How can we be sure of the sincerity of this people who have never even visited the region after the integration?", Tilman asked.

The lawyer is currently in Indonesia at the invitation of Francisco Lopes da Cruz (...)

Speaking through Lopes as his interpreter, Tilman said his visit here is a "concrete follow up" of a historic meeting in London last month, which brought together for the first time East Timorese leaders in Indonesia and East Timorese leaders in exile.(...)

REFERENDUM

Asked his opinion about Portugal's demand for a referendum Tilman answered that "it will not be consistent with the dynamics of the London meeting".(...)

Tilman explained that the Portuguese government's position on the East Timor question does not necessarily reflect the aspirations of the Portuguese people.(...)

Tilman, a member of the executive board of the Portuguese Lawyers Association also commented on the controversy over the letter from (...) Xanana Gusmão demanding that he be tried in an international court.

"Although I haven't red the letter, I can say that Portuguese lawyers can only assist him only after the Indonesian Supreme Court passes a judicial review on his case", Tilman said.

3- *The Nation* (Bangkok), 8/1/94, by Geoffry Gunn

("Reconciliation talks")... the "reunion" also attracted a strong push from Macao led by lawyer Dr. Manuel Tilman, a former Timorese member of the Portuguese Parliament (1980-81) (Independent Social Democratic Party) and selfstyled UDT president in Macao.

As you can see, it seems that there are strong reasons for the concern of those who have addressed me. For the Council be able to react with full knowledge of the facts, I would appreciate your explanation, with the greatest urgency, of the following matters:

a) Is it true that you consider a referendum in East Timor as unnecessary or even unrealistic, after the "reconciliation talks" in London?

b) Is it true that you have participated in those "reconciliation talks" and that you have been in Indonesia and East Timor?

c) Has been the Platform's name in any manner associated to those events? The "Portuguese Lawyers Association", to which the first and the second excerpts refer, is by chance the International Platform of Jurists for East Timor?

d) Is it true that you have stated that the "support for the movement opposing East Timor's integration with Indonesia is crumbling in Portugal" and that "the Portuguese government's position on the East Timor question does not necessarily reflect the aspirations of the Portuguese people"?

e) Is it true that you have stated that the "Portuguese people are increasingly doubting the sincerity of the East Timorese in exile in Portugal, who continue to insist on establishing a separate East Timor State"?

f) Is it true that you have considered Xanana's trial as "judicial affairs of another country"?

g) Is it true that you have stated that "we (IPJET?) will not interfere even if Xanana asks us to do so"?

If from your explanations the Council comes to the conclusion that there is a notorious incompatibility between your statements and the aims of the Platform, it is my duty to warn you for the possibility of the Council setting in motion the process foreseen by article 9 of the IPJET's Statute.

After having asked the opinion of other Council members, I must ask you to stop the eventual preparations for the conference of Macau/Hong Kong until this matter becomes clarified.

With great regret for what is happening, because I cannot forget your magnificent organization of the conference and meeting in Macau last May, I finnish asking you once more a very urgent answer. (...)"

II

As I had asked, Tilman's reply was prompt; I am afraid I cannot translate it, thus here follows a summary of his answers to my questions:

a) The Timorese leaders, "those in Diaspora and in the de facto Administration" must help to create conditions for the Governments of Portugal and Indonesia to solve the conflict, respecting the will of the East Timorese people, under the auspices of the UN Secretary-General. The decision has to be internationally accepted. The organization of a referendum in the present East Timor will certainly lead to more bloodshed; the East Timorese people wants independence, but not at such cost. Consensus is also a democratic form to decide. The Timorese leaders, when deciding, must respect the will of the people.

b) He has participated in the "reconciliation talks" in London and supports them. He also went to Indonesia and East Timor.

c) The Platform's name was never mentioned nor used. The in the newspapers referred "Portuguese Lawyers Association" is the "Portuguese Bar Association" and the "Macau Bar Association", of which he is necessarily a member in order to be allowed to practice as a barrister.

d) He has verified in East Timor that its people does not accept the integration as a fait accompli. Thus he would never have said that opposition to integration was begun and developed outside East Timor only [it seems that he did not understand my question]. Contrary to the solidarity of the Portuguese people with the East Timorese, the different Portuguese Administrations usually did not pay much attention to the question of East Timor.

e) He denies that he has ever said this.
f) He affirms that although the Indonesian court had no territorial jurisdiction to try Xanana, from a strictly legal point of view the appeal contained in Xanana's letter constitutes an Indonesian judicial affair.
g) He affirms that he was one of the first lawyers and IPJET members to object against Xanana's trial, because of the lack of territorial jurisdiction, but also for procedural and substantive reasons. In a possible review process of the sentence, IPJET could intervene through its Indonesian members.

III

My remarks to his answers, concerning the main subjects only, which I sent to all International Council members:
1- Tilman supports actively the "reconciliation talks". His explanations are contradictory in several points: he considers that Portugal and Indonesia can decide on a solution, but speaks further of a decision by Timorese leaders. Both "decisions", according to him, should respect the will of the Timorese people. But the expression of that will should not take place through a referendum, but through consensus. He does not say what he means by consensus. Or how it would be possible to know or to interpret such consensus under the Indonesian administration and military yoke.
According to International Law,

> "the exercise and implementation of the right of peoples to self-determination presupposes the free and genuine expression of their will (...) (This) means that the will of the people must be expressed through popular consultation accompanied by all the safeguards necessary to ensure freedom of expression for the people concerned. As the Court remarked (Western Sahara Advisory Opinion, ICJ Reports, 1975, p. 33), the validity of this assertion is not affected by United Nations dispensations, which have been based either on the conviction that such a consultation was unnecessary in a particular case or on special circumstances. A people under colonial and alien domination is unable to express its will freely in a consultation, plebiscite or referendum organized and controlled exclusively by the colonial and alien power." (Héctor Gros Espiell, "The right to self-determination. Implementation of United Nations Resolutions.", United Nations, New York, 1980, p. 11)

Espiell mentions the separate opinion of Judge Ammoun, who included among such dispensations

> "the case in which the will for self-determination emerges from the armed struggle of a people" (ibid., note 37, p. 18).

It is clear that in the case of East Timor, a territory under alien domination, a consultation cannot be considered as unnecessary. On the opposite: because Indonesia, the occupying Power, argues that it acts according to the wishes of the East Timorese, an impartial consultation of the will of this people should be seen as imperative.
According to article 4 of its Statute, the Platform has as aim

> "(...) (a) to foster the application of International Law to the question of East Timor".

I believe to be clear that what IPJET defends is the setting up of a referendum or plebiscite in the Territory, organized or supervised by the United Nations and not controlled by the occupying Power.
To declare publicly, as Tilman did, that the organization of a referendum in East Timor should be rejected, to make such statement in the capital of the very occupying Power, and to advocate a vague and indefinite consensus
in the place of an impartial consultation, seems to me acts contrary to the aims of the Platform, in the sense of article 9 of its Statute:

> "The quality as member ceases (...) through eradication by the General Assembly under proposal of the International Council, and based on grave incompatibility between acts of the member and the aims and the good name of the PLATFORM".

2- Another point of concern is the possible association between Tilman's activities and the name of the Platform. Many people knows that he is a member of the International Council, the executive board of IPJET. Even assuming that it is true that he did not mention the Platform and that the "Portuguese Lawyers Association" referred to by the newspapers is the "Portuguese Bar Association" and the "Macau Bar Association" (of whose executive board, according to the Jakarta Post, he is thus also a member), the fact that he has participated in those "reconciliation talks" and has made those declarations without previous knowledge of the other members of the IPJET's International Council is, to say the least, strange. Last August he had already been criticized for having (motu proprio) invited Lopes da Cruz, in the name of IPJET, to attend a conference he intended to organize that month in Macau: the other Council members were told of his plans only after a newspaper of Macau has publicized such invitation.
This reinforces, in my view, the need for the Council to deliberate on the application of the aforementioned article 9 of IPJET's Statute.

IV

Finally, I asked Manuel Tilman to send to all the other members of the International Council a written reaction to my remarks, if possible within two weeks; I asked all the Council members to make a commentary to my remarks and Tilman's reactions, if possible within one month, and namely answering to these two questions:
1- Do you consider the described acts of Manuel Tilman as contrary to the aims of the Platform, in the sense of article 9 of its Statute?
If the answer to this question is in the affirmative:
2- Do you consider that the International Council should propose to the General Assembly the termination of Manuel Tilman's membership of IPJET?

V

Tilman did not answer me, nor wrote to any of the other Council members. He only sent to me press-clippings (where he accuses the Platform of being 'people of Ramos-Horta') and press releases in name of a so-called 'Grupo de Macau da Resistência Timorense' with statements in the line of his new ideas.

VI

The other Council members (Shambhu Chopra, Paulette Mathy, José Pureza, Vanessa Ramos and Sasha Stepan) have unanimously answered to my two questions in the affirmative.

VII

Concluding,
The International Council proposes to the General Assembly the termination of Manuel Tilman's membership of IPJET.

Sec. Gen. IPJET

Financial balance
of the Constitutive Conference of the
International Platform of Jurists for East Timor
Lisbon, 8/9/10 November 1991

1-RECEIPTS

Assembleia da República (Portugal).....	3,000,000.00 PEsc
Banco Totta & Açores (Portugal).....	50,000.00 PEsc
Canadian Catholic Org. for Development and Peace (Canada) 427.64 US$ (500.00 CAN$) x 143.66 PEsc.	61,434.80 PEsc
CEBEMO (Holland) 15,000.00 DFL (x 73.30 PEsc)....	1,099,500.00 PEsc
Ministério dos Negócios Estrangeiros (Portugal)..	500,000.00 PEsc
Movimento Cristão para a Paz (Portugal).....	50,000.00 PEsc
OXFAM (Belgium).... 1,200.00 US$ x 143.27 PEsc...	171,923.00 PEsc
União das Instituições Particulares de Solidariedade Social (Portugal).....	400,000.00 PEsc
Total.....	5,332,857.80 PEsc

Other contributions in money or in kind:
1-Fundação Oriente (Portugal) covered the expenses that the organizing committee should have incurred with the hiring of the conference-room and two other rooms on 9 and 10 November in Centro de Apoio à Juventude João Paulo II: 62,940.00 PEsc.
2-Fundação Calouste Gulbenkian (Portugal) granted the Platform a subsidy of 1,000 US$, but the transfer of that sum is pending the administrative recognition of the Platform's legal status.
3-Sociedade de Geografia de Lisboa made available one room for four weeks to the organizing committee to use as a secretariat.
4-RIMA (Racionalização e Mecanização Administrativa, S.A.) supplied free of charge the organizing committee for three weeks a Fax-machine Ricoh, a portable computer CAF and a printer AEG.
5-Banco Totta & Açores donated 110 portfolios to the conference participants and secretariat staff.
6-MCP (Movimento Cristão para a Paz), CIDAC (Centro de Informação e Documentação Amílcar Cabral) and NERI (Núcleo de Estudantes de Relações Internacionais da Universidade Lusíada) provided human resources by staffing the secretariat both before and during the conference.
7-Hotel D. Manuel I made available a room for the reception of the participants on Friday, 8 November.
8-Instituto do Vinho do Porto offered a case of Port-wine for the same occasion.
9-Praiamar Expresso made available a bus with driver for the transport of the participants.
10-The group "GRITO" and Forum Municipal Luísa Todi in Setúbal offered the conference participants theater tickets for the play "O Povo de Timor não pode ser escravo de mais ninguém".

2-EXPENDITURES

A) Flights of foreign participants

Country	number of participants	costs
Australia	5	1,151,762.00 PEsc
Belgium	1	73,593.00 PEsc
Finland	1	96,969.60 PEsc
France	1	38,788.20 PEsc
Germany	1	83,116.80 PEsc
Hungary	1	152,000.00 PEsc
India	1	193,222.70 PEsc
Macau	1	150,000.00 PEsc
Netherlands	10	309,554.70 PEsc
Spain	1	53,154.20 PEsc
U.K.	2	101,987.80 PEsc
U.S.A.	5	437,771.80 PEsc
Total: foreign part. 30		2,841,920.80 PEsc

Comments:
The total expenses with the flights of foreign participants were less than expected - the number of participants, specially those from Asia, was smaller, some participants covered their own expenses and some air fares turned out to be cheaper.

B) Travels of the portuguese participants who live outside Lisbon

Railway ticket (Oporto-Lisbon-Oporto)..... 2,760.00 PEsc

Comments:
All portuguese participants covered their own travel expenses. The organizing committee had only to reimburse the travel costs of one staff member of the secretariat.

C) Costs of lodging (including breakfast)

Hotel D. Manuel I (16 participants).....	207,030.00 PEsc
Hotel do Reno (19 participants).....	305,550.00 PEsc
Hotel Príncipe (4 participants).....	49,500.00 PEsc
Total: (39 participants).....	562,080.00 PEsc

Comments:
Many portuguese participants living outside Lisbon have stayed at private houses and thus did not need lodging from the organizing committee.

D) Costs of meals

202 lunches and dinners (Colégio Pio XII)	151,060.00 PEsc
24 other meals elsewhere	21,962.00 PEsc
snacks and drinks during pauses	54,250.00 PEsc
other drinks elsewhere	2,850.00 PEsc
Total:	230,122.00 PEsc

Comments:
The price of the meals turned out to be almost 50% higher than was estimated. The other expenses were not foreseen in the preliminary budget.

E) Costs of conference-room
None. Please see supra (Receipts, other contributions..., under 1)

F) Organization expenses

1-Fax and telephone	
Organizing committee (Leiden):	
Telephone	79,750.40 PEsc
Fax	27,296.90 PEsc
Secretariat (Lisbon):	
Installation of a temporary telephone line	12,000.00 PEsc
Fax and telephone	42,858.00 PEsc
Other telephone costs elsewhere	23,657.00 PEsc
2-Post	
Organizing committee (Leiden)	28,828.90 PEsc
Secretariat (Lisbon)	4,910.00 PEsc
3-Photocopies	
Organizing committee (Leiden)	13,452.10 PEsc
Secretariat (Lisbon)	15,400.80 PEsc
4-Bureau articles	
Secretariat (Lisbon)	25,264.00 PEsc
5-Transport	
Organizing committee (Leiden):	
Train	476.50 PEsc
Diesel	12,000.00 PEsc
Secretariat (Lisbon):	
Diesel	26,410.00 PEsc
Taxis and subway	3,810.00 PEsc
6-Gratifications	
Staff member	15,000.00 PEsc
Other persons	17,000.00 PEsc
7-Other expenses	
Flowers (decoration conference-room)	5,000.00 PEsc
Total	353,114.60 PEsc

Comments:
These expenses were, by their very nature, difficult to foresee.

Summary of the costs

A)	2,841,920.80 PEsc
B)	2,760.00 PEsc
C)	562,080.00 PEsc
D)	230,122.00 PEsc
E)	---
F)	353,114.60 PEsc
Total expenditures	**3,989,997.40 PEsc**

3-BALANCE

Receipts	**5,332,857.80 PEsc**
Expenditures	**3,989,997.40 PEsc**
Credit balance	**1,342,860.40 PEsc**

Comments:
This surplus (about US$ 9,300.00) is being used for the first expenses of the Platform: the first meeting of the International Council (the Platform's executive organ), which took place in Leiden last May, the acquisition of a desk-jet printer for the printing of the Platform's Newsletter, other current expenditures of the Secretariat and the execution of some of the planned Platform activities (as the yearly international prize for the best student juridical work on East Timor). The specification of these expenditures will appear in the Platform's yearly financial report.

Financial balance
of the International Platform of Jurists for East Timor
November 1991/December 1992

(1 US$ = Fl. 1.83; 1 PEsc = Fl. 0.0133; 1 £ = Fl. 2.85)

1-RECEIPTS[1,2]

Credit balance[3] (10 Nov 1991) (1,342,860.40 PEsc)....	Fl.	17,860.04
IPJET member fees[4] (US$ 40,00 + £ 18.00).....	Fl.	124.50
Sale IPJET shoes[5]	Fl.	475.00
**Total..... **	**Fl.**	**18,459.54**

Notes:

1- Fundação Calouste Gulbenkian (Portugal) granted the Platform in 1991 a subsidy of US$ 1,000, but the transfer of that sum is pending the administrative recognition of the Platform's legal status.

2- The separate budget for the IPJET/CIIR Conference 'Indonesia's Occupation of East Timor: Legal Questions', held in London on 5 and 6 december 1992, was prepared by CIIR, responsible for all logistical aspects of the conference. The funds raised were administered by CIIR. According to that budget, CIIR will transfer £ 1,000 to IPJET in order to cover IPJET's administration costs in the preparation of the conference.

3- See 'Financial balance of the Constitutive Conference of the International Platform of Jurists for East Timor, Lisbon, 8/9/10 November 1991'.

4- In its first meeting in May 92 the International Council fixed the annual IPJET members fee at US$ 10.00. The Platform members will be asked to pay their fee when they receive the first issue of IPJET Newsletter. A few members paid it already.

5- In order to obtain funds, promoting at the same time the Platform and alerting for the genocide practices of Indonesia in East Timor (see annexed leaflet), IPJET's Secretariat imported from Portugal 112 pairs of shoes for sale. The (gross) profit will be around Fl. 2,750.

2-EXPENDITURES[1]

A) Office stationary

A1) machines and accessories

Ricoh telefax 08.....	Fl.	2,399.63
printer HP Deskjet 500.....	Fl.	1,143.53
dustcover printer.....	Fl.	59.25
modem Bausch 3522SA.....	Fl.	249.00
cable modem.....	Fl.	29.63
bureau light.....	Fl.	17.95

A2) other articles

visiting cards International Council...(US$ 65)....	Fl.	118.95
paper, envelopes, fax paper, etc.....	Fl.	95.90
Sub-total.....	Fl.	4,113.84

B) Telephone, fax and post

telephone and fax note (15/11-20/1).....	Fl.	340.95
telephone and fax note (20/1-16/3).....	Fl.	316.00
telephone and fax note (16/3-18/5).....	Fl.	395.00
telephone and fax note (18/5-20/7).....	Fl.	339.20
telephone and fax note (20/7-15/9).....	Fl.	562.40
telephone and fax note (15/9-16/11).....	Fl.	953.10
telephone costs in Portugal (PEsc. 4,704.70).....	Fl.	62.57
post stamps.....	Fl.	87.70
Sub-total.....	Fl.	3,056.92

C) Meetings and conferences

travel costs in the Netherlands.....	Fl.	66.25
travel + stay Geneva (UNHRC + ET solid. meeting)...	Fl.	300.00
ticket S.Chopra Delhi-Ams (Council meeting).....	Fl.	1,465.50
surplus ticket Chopra (US$ 85) + airp.tax (US$ 40).	Fl.	228.75
ticket J.M.Pureza Lx-Ams (C.meeting)(PEsc 68,187)..	Fl.	906.89
ticket V.Ramos NY-Ams (Council meeting)(US$ 735)...	Fl.	1,345.05
ticket S.Stepan Syd-Ams (C.meeting)(PEsc 252,442)..	Fl.	3,357.48
costs trip A.Carrier Brussels-Leiden (C.l meeting).	Fl.	55.00
stay expenses Council meeting (Leiden).....	Fl.	832.80
ticket AMS-London (meeting East Timor book).....	Fl.	48.50
expenses London (meeting East Timor book)(£ 5.00)..	Fl.	14.25
ticket AMS-London (meeting prep. Conference).....	Fl.	48.50
expenses London (meeting prep. Conference)(£ 46.00)	Fl.	131.10
ticket V.Ramos NY-London (Council meeting)(US$ 400)	Fl.	732.00
ticket A.Carrier Bxl-Lon (Council meeting)(US$ 130)	Fl.	237.90
ticket S.Stepan Syd-Lon (Council meet.) (US$ 1,360)	Fl.	2,488.80
ticket M. de Bruyn (London Conference).....	Fl.	175.00
stay expenses Council meeting (London) (£ 17.25)...	Fl.	49.16
Sub-total.....	Fl.	12,482.93

D) IPJET shoes[2]

IPJET shoes (LIMAC factory, 112 pairs).....	Fl.	8,615.00
VAT IPJET shoes.....	Fl.	1,694.81
transport + clearing IPJET shoes.....	Fl.	633.57
other expenditures (cheque, photos).....	Fl.	49.50
Sub-total.....	Fl.	10,992.88

E) Other expenditures

advertisement BCET (Observer, 7th June).....	Fl.	66.00
participation expenses Breed Overleg Oost-Timor....	Fl.	25.00
expenses registration IPJET Portugal (PEsc 80,000).	Fl.	1,064.00
presents.....	Fl.	40.00
Sub-total.....	Fl.	1,195.00
**Total expenditures..... **	**Fl.**	**31,841.57**

Notes:
1- The activities mentioned in the 1992 Annual Report which are not referred in this balance, either did not involve costs for IPJET, or those costs were directly covered by other organisation. This was, for instance, the case of the debates of November 91 in four Portuguese Universities (1992 Annual Report, II, a, 1), of IPJET's participation in the 4th Seminar on East Timor of the Oporto University (II, a, 8) and of IPJET's participation in the Lisbon seminar of 'A Paz é Possível em Timor-Leste' (II, c, 2).
2- See note 5 of Receipts.

3-BALANCE

Receipts.....	Fl. 18,459.54
Expenditures.....	Fl. 31,841.57
Debit balance[1].....	Fl. 13,382.03

Notes:
1- In order to cover this deficit, an interest-free loan was raised with D.E.M. Gastkemper, of Leiden.